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10/561,924	12/22/2005	Yuko Tsusaka	2005_1977A	3060

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>15 July 2008</u>.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-5,9-19 and 22-24</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-5,9-19 and 22-24</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

U.S. Patent and Trademark Office
PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20081007

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 15 July 2008 have been fully considered but are moot

in view of the new rejections.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
> set forth the best mode contemplated by the inventor of carrying out his invention.

3.   Claims 2-5, 9-18, 23, and 24 are rejected under 35 U.S.C. 112, first paragraph,

as failing to comply with the written description requirement. The claim(s) contains

subject matter which was not described in the specification in such a way as to

reasonably convey to one skilled in the relevant art that the inventor(s), at the time the

application was filed, had possession of the claimed invention.

4.   Amended claims 2, 23, and 24 recite requesting "the information supply

apparatus to supply first section information…" and receiving "the first section

information, from the information supply apparatus, when the first section information is

supplied from the information supply apparatus **as a result of the information supply**

apparatus judging that the first section information cannot be generated at the

level of performance of the home server apparatus indicated by the criterion

information."

5.   The specification describes a first section information that is stored at an

information supply apparatus. Specification filed 12/22/05, pg. 18, l. 13-18. The

information supply apparatus supplies the first section information to a home server

apparatus when the home apparatus' level of performance is lower than a level of

performance associated with the first section information stored at the information

supply apparatus. *id.*, pg. 19, l. 26 -- pg. 20, l. 7. The specification provides no support

for supplying the first section information after judging that the first section information

"cannot be generated at the level of performance of the home server apparatus

indicated by the criterion information." Specifically, the specification provides no support

for generating a first section information at the home server apparatus when a first

section information is already stored at the information supply apparatus. The home

server apparatus generates a second section information only after comparing the

home server's level of performance with the level of performance associated with the

previously-generated first section information. *Id*, pg. 18. Therefore, the judging unit

does not judge whether the home server apparatus can or cannot generate a first

section information, since the first section information is already generated and stored at

the information supply apparatus.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1, 19, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan (US 2003/0093790) in view of Phillips (US 2006/0129627).

        Claim 1 (Currently Amended): Logan teaches:

        A contents storage system comprising: a home server apparatus for recording a plurality of contents in a contents recording unit (device for playing/storing video at user location 141 [Fig 1] [para 0052]); and an information supply apparatus for supplying the home server apparatus with section information that indicating how each of the contents is divided into sections (device at remote site 101 for creating metadata including segment information [para 0046]),

        wherein the information supply apparatus stores, in a storage unit, a plurality of pieces of section information corresponding to the plurality of contents (section metadata may be stored [para 0046] in remote location storage [Fig 1]),

        wherein the information supply apparatus includes:

        a receiving unit operable to receive, from the home server apparatus, (i) identification information for identifying, as recorded content, content recorded in the contents recording unit of the home server apparatus (recorded programs are identified to the remote system so improved markups can be downloaded [para 0107]);

        a judging unit operable to judge that (i) section information should be supplied to the home server apparatus when the level of performance of the

home server apparatus indicated the by criterion information is lower than a level

of performance in relation to generating section information stored in the storage

unit (if the remote location has an improved markup it will be supplied to the

home location [para 0107]), and (ii) section information should not be supplied,

from the information supply apparatus, to the home server apparatus when the

level of performance of the home server apparatus indicated by the criterion

information is equal to or higher than the level of performance in relation to

generating the section information stored in the storage unit (only improved

markups are downloaded [para 0107]; i.e. if a markup is equal or lower in

performance it is not improved and therefore not downloaded); and

a supply unit operable to, when the judging unit judges that section

information should be supplied to the home server apparatus, read first section

information, which corresponds to the recorded content identified by the

identification information, from the storage unit and supply the home server

apparatus with the first section information (the improved markups are supplied

by the server [para 0107]), and

wherein the home server apparatus includes:

a receiving unit operable to receive the first section information, from the

information supply apparatus, when the first section information is supplied from

the information supply apparatus [para 0107];

a generating unit operable to generate second section information

corresponding to the recorded content, the second section information being

generated when the first section information is not supplied from the information

supply apparatus (users can create their own improved or original metadata

[para 0106]); and

a section information recording unit operable to record therein (i) the first

section information corresponding to the recorded content, when the first section

information is supplied from the information supply apparatus (recording the

improved markup from the remote location [para 0107]), and (ii) the second

section information corresponding to the recorded content, when the first section

information is not supplied form the information supply apparatus (user-created

markup at the user's location [para 0106]).

Logan fails to explicitly teach wherein the home server apparatus includes:

a requesting unit operable to request the information supply apparatus to

supply the first section information corresponding to the recorded content, by

sending, to the information supply apparatus, (i) the identification information for

identifying the recorded content, and (ii) the criterion information that indicates

the level of performance of the home server apparatus.

Logan further fails to explicitly teach receiving the criterion information at the

information supply apparatus.

Phillips teaches a method for downloading improved versions of data

[Abstract] wherein a home server apparatus (client) requests an improved

version of data by sending to an information supply apparatus (server) an

identification message for identifying the data and criterion information that

indicates a level (version) associated with the data and the apparatus (step S408

[Fig 10]: client transmits a file identification with version number to check if a new

version exists on the server [para 0135], and if so downloads it in step S428).

It would have been obvious to modify Logan to incorporate the downloading

method of Phillips, thus downloading a new version of metadata based on a level

of performance associated with the generating (based on whether the metadata

is improved [Logan 0107]) instead of based on a version number. The

combination could have been made according to known methods because both

systems index updated data based on a certain criterion. Although the criteria are

different between the references, both downloading methods are drawn towards

downloading improved data and therefore are analogous art. The combination

would have yielded the predictable result of downloading improved metadata

after requesting improved metadata from the information supply apparatus by

supplying a particular content with which metadata is associated and a criterion

for determining whether improved metadata exists at the server.

Claim 19 (Currently Amended) Logan teaches:

An information supply apparatus for supplying a home server apparatus with

section information indicating how contents are each divided into sections, the

information supply apparatus comprising:

a receiving unit operable to receive, from the home server apparatus, (i)

identification information for identifying a predetermined content stored in the

home server apparatus (recorded programs are identified to the remote system

so improved markups can be downloaded [para 0107]);

a judging unit operable to judge that (i) a piece of section information

corresponding to the predetermined content should be supplied to the home

server apparatus when the level of performance of the home server apparatus

indicated by the criterion information is lower than a level of performance in

relation to generating section information stored in a storage unit (if the remote

location has an improved markup it will be supplied to the home location [para

0107]), and (ii) the piece of section information corresponding to the

predetermined content should not be supplied to the home server apparatus

when the level of performance of the home server apparatus indicated by the

criterion information is equal to or higher than the level of performance in relation

to generating the section information stored in the storage unit (only improved

markups are downloaded [para 0107]; i.e. if a markup is equal or lower in

performance it is not improved and therefore not downloaded); and

a supply unit operable to, when the judging unit judges that (i) the piece of

section information corresponding to the predetermined content should be

supplied and (ii) the piece of section information corresponding to the

predetermined content identified by the received identification information is

stored in the storage unit, read the piece of section information from the storage

unit and supply the home server apparatus with the piece of section information

read from the storage unit (the improved markups are supplied by the server

[para 0107]).

Logan further fails to explicitly teach receiving the criterion information at the

information supply apparatus.

Phillips teaches a method for downloading improved versions of data

[Abstract] wherein a home server apparatus (client) requests an improved

version of data by sending to an information supply apparatus (server) an

identification message for identifying the data and criterion information that

indicates a level (version) associated with the data and the apparatus (step S408

[Fig 10]: client transmits a file identification with version number to check if a new

version exists on the server [para 0135], and if so downloads it in step S428).

It would have been obvious to modify Logan to incorporate the downloading

method of Phillips, thus downloading a new version of metadata based on a level

of performance associated with the generating (based on whether the metadata

is improved [Logan 0107]) instead of based on a version number. The

combination could have been made according to known methods because both

systems index updated data based on a certain criterion. Although the criteria are

different between the references, both downloading methods are drawn towards

downloading improved data and therefore are analogous art. The combination

would have yielded the predictable result of downloading improved metadata

after requesting improved metadata from the information supply apparatus by

supplying a particular content with which metadata is associated and a criterion

for determining whether improved metadata exists at the server.

Logan in view of Phillips further teaches:

Claim 22 (Currently Amended) The information supply apparatus of Claim 19,

wherein the content is distributed by television broadcasting [Logan 0043

wherein the identification information indicates (i) a channel that is a

distribution source of the content [Logan 0080] and (ii) a broadcast time of the

content [Logan 0080], and

wherein the supply unit reads, from the storage unit, a piece of section

information that corresponds to content identified by the channel and the

broadcast time indicated by the identification information, and supplies the home

server apparatus with the piece of section information that corresponds to the

content identified by the channel and the broadcast time (metadata is identified

[Logan 080] and transmitted from storage [Logan 0046]).

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bennett Ingvoldstad whose telephone number is (571)270-3431. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bennett Ingvoldstad/

Examiner, Art Unit 2427

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427